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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,867	11/20/2003	Bodo Homann	028987.52717US	5647

23911 7590 10/14/2004

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EXAMINER
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PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/716,867

Applicant(s)

HOMANN ET AL.

Examiner

Dennis H. Pedder

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/03 &amp; 5/04</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two roof elements, claim 12, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-15, 21-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 is incorrect in “beyond an groove” as the extension is co-extensive with the groove and is not understood in “to the groove or the rollover bar system”. See also claim 22.

Claim 21 lacks antecedent for “each roof element” as only a “roof member” is recited in claim 16 and only one at that.

Claim 25 is illogical. The claim sets forth one member selected from a set of pin and crank engageable with the pin. How can a pin engage itself?

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 16, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Schroeder et al..

The crank is located in the offset sleeve 47 and engages pin 45.

5. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Klein.

The pin 20 engages the crank 34 via the hooked end thereof.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-6, 9-11, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. in view of Schlachter et al..

It would have been obvious to one of ordinary skill to provide in Schroeder et al. as described above a locking pin 31 and crank 16 in order to accomplish the result of Schroeder et al. with the advantage of increased lift and reduced closing force via the crank mechanism of Schlachter et al..

As to claim 3, Schlachter et al. discloses a manual lever.

As to claim 4, Schlachter et al. has fixing vertical conical pin 19, mounted on the frame part 11 with also mounts the operating device, hence they are mounted on each other.

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As to claims 9-11, screw fastening is common knowledge in this art, obvious to use to enable disassembly for repair.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

9. Claims 12-15, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Schroeder et al. or Schroeder et al. in view of Schlachter et al. as applied to claim 1 above, and further in view of Steyer-Daimler-Puch AG, G9406435.0, cited by applicant.

It would have been obvious to one of ordinary skill to provide in either Schroeder et al. or Schroeder et al. as modified by Schlachter et al. dual roof elements as taught by Steyer-Daimler-Puch AG in order to reduce the weight of each and ease removal.

As to claim 13, see figure 5 of Steyer-Daimler-Puch AG wherein the roof element has a rearward wall extension projecting above a groove of the rearward rollbar structure 2 and has first sealing section to the right of the extension and a second below.

As to claim 21, an operating device for each removable roof element is only common sense to prevent inadvertent removal and two such devices for each roof element are merely an obvious duplication of parts to enhance securement and sealing.

10. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein in view of Schroeder et al..

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It would have been obvious to one of ordinary skill to provide in Klein a forward form locking means 42,43 as taught by Schroeder et al. in order to secure both ends of the removable panel.

As to claim 26, see locking pin 20 and operating device 34 of Klein.

11. Claims 27, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein in view of Schroeder et al. as applied to claim 26 above, and further in view of Schlachter et al..

It would have been obvious to one of ordinary skill to provide in the references above a crank arm 26 connected to a swivel shaft 25 and a disclosed manual lever as taught by Schlachter et al. for the advantages listed above.

As to claim 30, screws are a well-known expedient as discussed above.

12. Claims 7-8, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. in view of Schlachter et al. or Klein in view of Schroeder et al. and Schlachter et al. as applied to claims 3, 27 above, and further in view of Perks.

It would have been obvious to one of ordinary skill to provide in either set of references above a recessed operating lever as taught by Perks in order to avoid injury upon inadvertent impact.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Homman et al. is cited to show a flush mount lever. Hoelzel shows a conical pin and insert mating therewith.

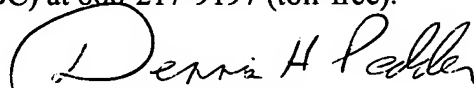
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178.

The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

10/6/04

DHP  
10/07/2004